

REPORT - PLANNING COMMISSION MEETING
October 9, 2004

Project Name and Number: Niles Grove (PLN2003-00287)

Applicant: John Clay, Clear Creek Services Inc.

Proposal: To consider a Zoning Administrators referral of a Zoning Administrator Permit to allow for the development of three detached single-family dwellings (Dwelling Group) on an existing single-family lot.

Recommended Action: Approve based on Findings, subject to Conditions of Approval

Location: 35601 Niles Boulevard in the Niles Planning Area

Assessor Parcel Number(s): 507-9001-001-00

Area: 43,560 square feet (1 acre)

Owner: Jan Filip, First Christian Church

Agent of Applicant: John Clay, Clear Creek Services Inc.

Consultant(s): Kurt Hereld, Hereld & Ayres Architects, Hassan H. Ibrahim, Terra Engineering Construction, Eric Kieselback, Phase One Inc., Paul Bradley, Landscape Architect

Environmental Review: An Initial Study and Negative Declaration was prepared and circulated for this project.

Existing General Plan: Low Density Residential (5-7DU/AC)

Existing Zoning: R-1-6, Single Family Residence District

Existing Land Use: Vacant

Public Hearing Notice: Public hearing notification is applicable. A total of 43 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Niles Boulevard, Carnation Way, Linda Drive and Hibiscus Avenue. The notices to owners and occupants were mailed on September 12, 2003. A Public Hearing Notice was delivered to The Argus on September 8, 2003 to be published by September 11, 2003. The public hearing was continued at the September 25, 2003 Planning Commission Meeting until October 9, 2003.

Executive Summary: The Planning Commission is being asked to consider a Zoning Administrator referral of a Zoning Administrator Permit (ZAP) that would allow the applicant to use the lot at 35601 Niles Boulevard as a "dwelling group", specifically to develop three detached single-family dwellings on one lot in an R-1-6 district. The proposed project complies with all zoning standards applicable for a dwelling group in the R-1-6 district.

Background and Previous Actions: On November 26, 1957, the City Council adopted Ordinance 87, which provided standards for "Dwelling Groups" in residential neighborhoods (Section 8-22139 of the Fremont Municipal Code (FMC)). The Section was amended on four different occasions thereafter to include additional regulations for the development of dwelling groups and to reduce the minimum area requirement for a dwelling group from "at least 20 percent greater than" to "equal to the aggregate" of the minimum lot area otherwise required for the individual dwellings in the group based on its zoning district. The purpose of allowing dwelling groups in R-1 single-family residential districts are to provide flexibility for the development of additional dwelling units on those lots that can meet development standards, such as minimum

area and setbacks requirements, but generally cannot satisfy the requirements for a subdivision. For example, a lot may satisfy the minimum area required for a subdivision in its zoning district, but due to a deficient street frontage required to create multiple lots, the lot may not be subdivided.

In early June 2003, the Zoning Administrator received a request from the applicant for a Zoning Administrator Permit to allow the development of a "dwelling group". Specifically, the applicant requested approval of a "dwelling group" to allow for the development of three detached single-family residential units. On June 2, 2003, property owners within 300 feet of the project were notified of the applicant's proposal. After this formal notice, staff received two telephone inquiries and three letters (attached as Informational) from area residences either requesting further information on the proposal and/or outlining their concerns. As a result of these inquiries, the applicant held an Information Meeting on July 20, 2003 for the surrounding residents to outline the proposed project and obtain input and feedback on the proposal. In early August 2003, staff sent another notice to the property owners within 300 feet of the project further describing the project and advising that the Zoning Administrator Permit would be approved, unless a request in writing was made to hold a public hearing on the matter. On August 14, 2003, the City received a letter from Al & Tammy Perales requesting that a public hearing be held on the application. It should also be noted that staff has received two telephone inquiries in support of the proposed application.

Project Description: The applicant requests the approval of a Zoning Administrator Permit to allow the development of three single-family dwellings on a lot located at 35601 Niles Boulevard. The site is located adjacent to the Union Pacific (UP) railroad and Bay Area Rapid Transit (BART) lines at its southeastern edge and Niles Boulevard, at its northern edge. The site is approximately 43,560 square feet in size, with 194 feet of frontage along Niles Boulevard. The land is currently vacant of any buildings or structures. The dwellings are being proposed to house adults with developmental disabilities who currently reside in the City of Fremont and were displaced from the former Serra Center in 1996. The applicant, Clear Creek Services, is a non-profit organization whose sole purpose is to provide housing to adults with developmental disabilities. Many members of this non-profit organization have siblings who will be living within the proposed development.

The proposed site plan is attached as Exhibit "A". The applicant proposes to construct three single-family dwelling units each being one story in height with a total floor area of approximately 3,245 square feet per unit. Each home has been designed to accommodate six adults, with the typical kitchen, living room and activity area. The site has been designed to retain the existing redwood grove located in the middle of the site, which will be used as part of the open space area (patio/table) and the focal point for the future residents. The main activity area is proposed to be located behind Building 2, and the applicant is also proposing a small trail/path system within the site for the enjoyment of the residents. The homes have been kept away from this central area (redwood grove), with two of the homes backing onto the existing church site and the third home abutting Niles Boulevard. The main access into the site will be off Niles Boulevard with a secondary access connecting the proposed development to the existing church. The applicant is proposing a total of 9 on-site parking spaces, 6 of which will be covered spaces.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low Density Residential, 5-7 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the lot area can sufficiently accommodate three single-family dwellings. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Land Use (LU) Goal 1: *New housing development while conserving the character of the City's existing Single-family residential neighborhoods.*

Housing (H) Goal 5: *Ensure that all Persons have equal access to housing opportunities.*

- **Zoning Regulations:** The following table represents the applicant's proposal as compared with the required standards for the three dwellings located on a lot zoned R-1-6.

35601 Niles Boulevard – Dwelling group in R-1-6 Residence District		
	General Standards	Proposed
Lot Area	Minimum 18,000 square feet for 3 Dwellings	43,560 square feet
Lot Width	70 feet	194 feet
Setbacks for 3 Dwellings in R-1-6 Residence District		
Front Yard	20 feet	20 feet
Side Yard	5 feet one side	5 feet one side
	12 feet total	7 feet other side (12 total)
Rear Yard	25 feet	25 feet
Distance Between Structures	10 feet	12 feet

The site is zoned R-1-6, Single Family Residential, and 6,000 square feet of lot area per unit. As indicated above, the proposed project conforms to the development standards required of a Dwelling Group in an R-1-6 zoning district.

Parking: The FMC requires that single-family dwellings with five or more bedrooms provide 3 covered off-street parking spaces. Given that the proposed project consists of three single-family dwelling units on the lot, each with 6 bedrooms, 9-covered parking space should be provided per code. The plan as proposed identifies six covered parking spaces and three uncovered spaces (1 handicapped, 1 standard and 1 compact), which are located adjacent to Niles Boulevard. In discussions with staff, the applicant has advised that none of the residents will drive and that at the most there will be one staff person in each of the units. Section 8-22003 (2)(c)(ii) of the Fremont Municipal Code allows Planning Commission to make a Finding to reduce the parking space requirement due to the anticipated tenancy of the dwelling units within a project. Staff finds that due to the tenancy of the dwelling units the parking proposed by the applicant adequately meets the needs of the development. Staff has also added a condition (Condition 2) indicating that if at any future date the tenancy changes then the on-site parking space requirement would be reviewed to see if it has to be modified in any way. The covered parking structure adjacent to the west property line (next to Building 3) typically has a 10-foot setback when it abuts a residential land use, however in this case staff is recommending a 7-foot setback. This reduction would allow all of the covered parking spaces to be standard size (full) spaces. The land adjacent to the west property line is owned by the Alameda County Water Control District, who has advised staff that they may place a water production well on the land in the future. This 7-foot setback would also allow the applicant to retain a significant buffer around the “existing redwood grove” in the middle of the project site, which a significant amount of the site has been designed around. It should also be noted that the applicant and Alameda County Water District are having discussions relating to the possibility of the applicant using the County’s land as open space/recreation area.

Open Space/Landscaping: The open space area is being designed to include some common areas where residents can meet and socialize. Amenities will include seating areas, walking paths and an outdoor barbeque area.

Circulation/Access Analysis: Primary access to the project site is from a driveway on Niles Boulevard; across from the Niles Boulevard-Linda Drive intersection. Secondary access to the site is provided through the adjacent church property to the east, via an existing private access easement and emergency vehicle access easement. On-site circulation is provided by a driveway loop with parking spaces on the south and east side of Building 3.

Street improvements are required along the Niles Boulevard frontage. Improvements are also required along the frontage of the church property to the east. The First Christian Church, being the neighboring property owner and the previous owner of the project site, entered into an agreement with the City to install street improvements along Niles Boulevard. The current property owner is obligated to the terms of the existing agreement. The agreement runs with the land and allows for the deferral of the street improvements until such time as certain conditions dictate the improvements are completed. One condition, which ends the deferral period, is if the City has a public works project that installs the street improvements.

The City's five year Capital Improvement Program (CIP) includes a project to complete the improvements across the site's frontage as part of a larger project, which will replace the existing bridge over the BART tracks. City staff is currently working on the right-of-way requirements and design documents for City Project No. 8460 (PWC), Niles Boulevard Overhead Bridge Replacement. The City project will replace the existing bridge with a new bridge, which conforms to current seismic building code requirements. If the City's project proceeds as scheduled, the bridge replacement and street improvements construction should begin in early 2005.

It is anticipated that the City's project will proceed and that the property owner and neighboring church will participate financially in the public works project by paying their pro rata share of the project.

The Alameda County Water District obtained a small parcel of land immediately west of the subject site in 1986 (Location Map). The lands were obtained for a possible location of a future water production well site. If the lands are ever developed with such a facility, vehicle access (monitoring) and utilities easements would need to be acquired, as currently there is no easement registered over any adjacent lands. Currently the District could access their lands by crossing the subject lands and/or using the City's expanded right-of-way. However, with the development of the subject lands and Niles Boulevard Overhead Bridge Replacement, both of these potential access points will be encumbered. The District has indicated an interest in obtaining an access and utility easement from either the project applicant or the City of Fremont.

Lot Creation

The City approved the Minor Subdivision (MS 69-21) of the subject property on April 9, 1971. A lot line adjustment (LLA 03-05) was approved by the City Engineer on June 18, 2003 to reflect the current 1.00-acre lot configuration.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than one acre of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

Applicable Fees

- **Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Waste Management: This project involves the construction of three single-family dwelling units and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The trash enclosure will be located towards the rear of the site and will be designed in a manner to be architecturally compatible with nearby structures and with the existing topography and vegetation in accordance with such standards.

Environmental Analysis: An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The 20 day review period for these environmental documents started on September 19, 2003 and concludes on October 8, 2003. The environmental analysis identified concerns regarding potential impacts to Noise. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to less than significant. These mitigated measures have been included as conditions of approval for this project.

Noise & Vibration Assessment

Consultants Illingworth & Rodkin, Inc., completed a professional noise and vibration assessment and provided mitigation measures based on their knowledge of the proposed project. The study concluded that vibration levels at the closest dwelling unit to the Union Pacific Railway right-of-way do not exceed the Federal Transit Administration criteria for habitable buildings, therefore, no mitigation is required. However, the study identified the Union Pacific railway, Bay Area Rapid Transit (BART) Lines and Niles Boulevard as dominant sources of noise, resulting in environmental noise levels within certain portions of the proposed project site to exceed an exterior Ldn of 60 dBA.

The Health and Safety Element of the General Plan contains policies designed to limit noise exposure at noise sensitive locations. The policy indicates that "new residential developments" shall meet acceptable exterior and interior noise levels. The policy outlines that the maximum acceptable outdoor noise level is 60 dBA and the maximum indoor noise level shall not exceed 45 dBA. The Noise Assessment stated exterior noise levels will exceed an Ldn of 60 dBA. Based on the results of the noise assessment (existing conditions) and future noise projections, the "redwood grove area" and areas south and east of Building 2 are exposed to an existing Ldn of 62 to 63 dBA and may be exposed to a future Ldn of 65 to 68 dBA if the Union Pacific Railway comes into active use. The area north of building 3 and south of Niles Boulevard is exposed to an existing Ldn of 61 to 62 dBA and may be exposed to a future Ldn of 64 to 65 Ldn under General Plan build-out traffic conditions when the Niles Boulevard Bridge replacement project is completed.

The mitigations outlined in the study require the placement of a solid noise barrier with a top of wall height of 10 feet along the shared property line with Union Pacific Railroad right-of-way, on approximately 100 feet of the western property line between the Alameda County Water District and Building 3 and on approximately 125 feet of the eastern property line (adjacent Church site). As an alternative to the wall extension along the western and eastern property lines, the wall could be extended along the Union Pacific Railway right-of-way beyond the limits of the project. Since sound walls which are extended towards receivers are more effective per length of barrier, a wall extending on the Union Pacific Railway right-of-way beyond the limits of the project would need to extend approximately 150 feet northwest and 175 feet southeast of the site. Along the northern edge of the property abutting Niles Boulevard a noise barrier with a top of wall height of 8 feet is required on the property line adjacent to Niles Boulevard extending approximately 20 feet south to the face of Building 3 adjacent to the Alameda County Water District's property. Condition 13 requires the applicant to implement the mitigations outlined in the Environmental Noise and Vibration Assessment completed for this project.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission.

The Initial Study conducted for the project has also evaluated the potential for this project to cause an adverse effect—either individually or cumulatively – on wildlife resources. There is no evidence the proposed project would have any potential for an adverse effect on wildlife resources. Based on this finding, a certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code Section 21089 (see attachment to draft Negative Declaration). The certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Response from Agencies and Organizations: Staff received four letters (attached as Informational) and two phone responses from adjacent neighbors who either had concerns or opposed the Zoning Administrators Permit Application. Primarily, the respondents find that the proposed project does not fit within the character of the neighborhood. Staff also received a letter from the Alameda County Water District indicating an interest in obtaining an easement over the project site or over the adjacent City parcel. The easement would serve to provide access and utilities to the District's adjacent triangular parcel.

Enclosures: Exhibit "A" Site Plan, Floor Plan, Elevations and Landscape Plan
Exhibit "B" Findings and Conditions of Approval
Environmental Initial Study and Draft Mitigated Negative Declaration
Mitigation Monitoring Plan

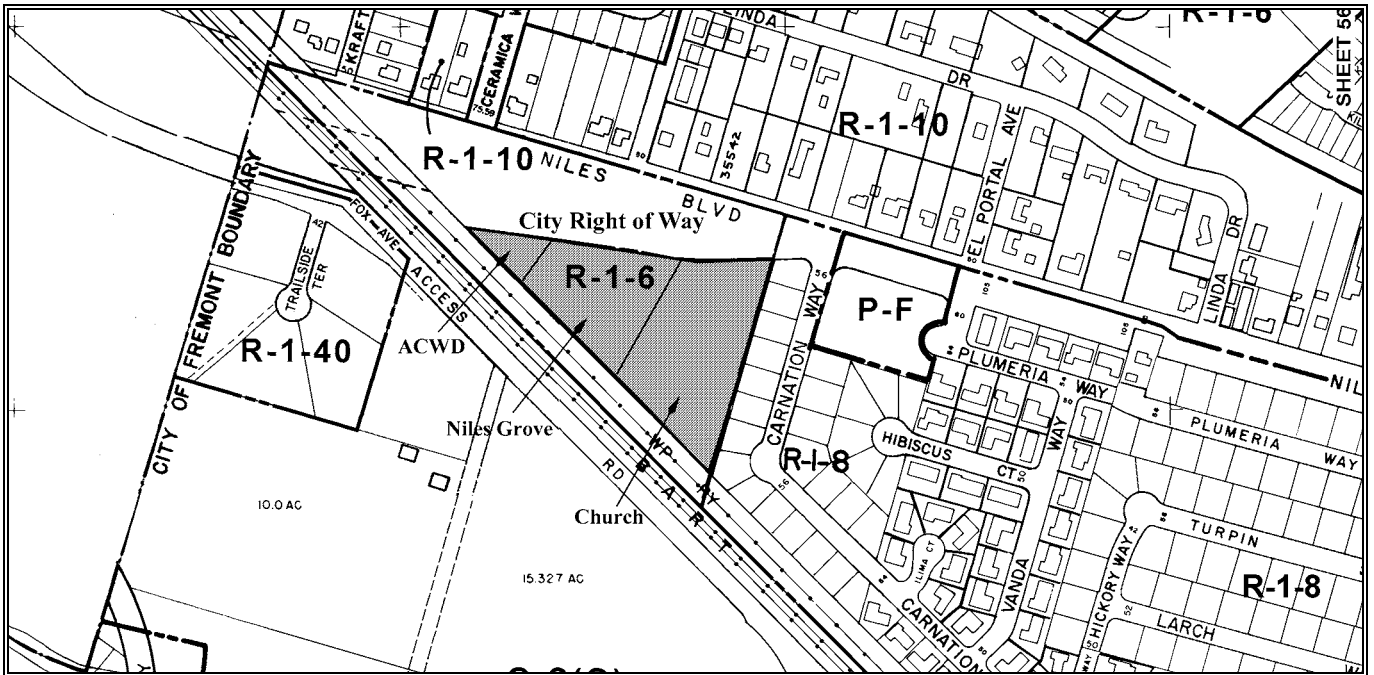
Exhibits: Exhibit "A" Site Plan, Floor Plan, Elevations and Landscape Plan
Exhibit "B" Findings and Conditions of Approval

Informational Enclosures: Letters from adjacent residents

Recommended Actions:

1. Hold public hearing.
2. Find the Initial Study conducted for PLN2003-00287 has evaluated the potential impacts for this project that would cause an adverse effect – either individually or cumulatively on wildlife resources, and find that there is no evidence the proposed project would have any potential adverse effect on wildlife resources.
3. Adopt the Draft Mitigated Negative Declaration prepared for the project and find that it reflects the independent judgment of the City of Fremont, and find there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment.
4. Approve the Mitigation Monitoring Plan for this project.
5. Find PLN2003-00287 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
6. Find that a parking reduction and number of covered spaces as outlined in the staff report is appropriate for this development.
7. Find that the reduction in the parking structure (carport) setback from 10 feet to 7 feet is appropriate for this development.
8. Approve PLN2003-00287, as shown on Exhibit "A", subject to the findings and conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

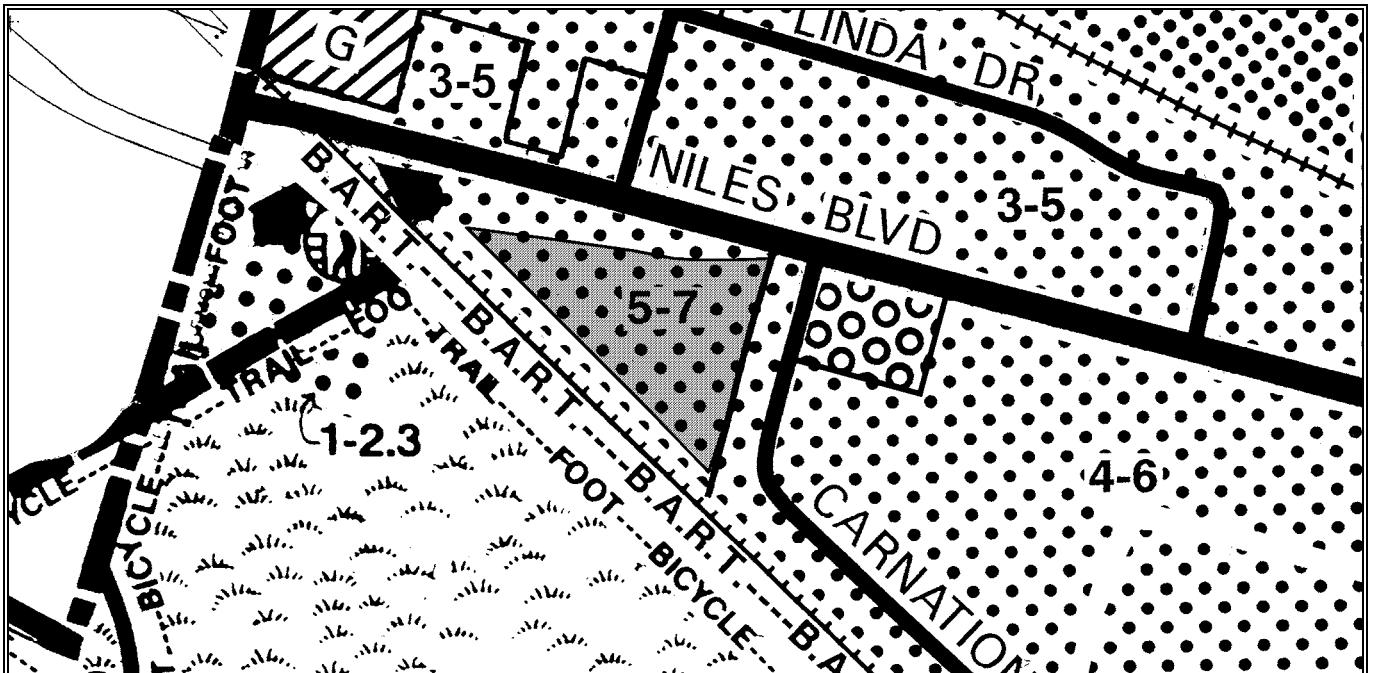


Exhibit "B"
Findings and Conditions of Approval for
PLN2003-00287 (Zoning Administrator Permit)
Dwelling Group for 35601 Niles Boulevard

Findings for Approval:

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated October 9, 2003, incorporated herein:

- a) The site is suitable and adequate for the proposed project in that it meets the minimum aggregate area for three dwellings [18,000 square feet] that would otherwise be required for the individual dwellings in the group in the R-1-6 zoning district.
- b) The proposed project would not have a substantial adverse effect on traffic circulation, the planned capacity of the street system or other public facilities or services because points of ingress-egress are properly located, sufficient parking is provided, and adequate fire fighting equipment access and facilities are available.
- c) The proposed project would not have a substantial adverse economic effect on nearby uses because the design and appearance of the dwelling units on the lot is compatible with the surrounding community.
- d) The proposed project would not have a substantial adverse impact on the general welfare of persons residing in the community because the proposed dwelling units on the lot will be required to adhere to all zoning standards as well as all federal, state and local building and fire codes.
- e) The proposed project is compatible with existing and proposed development within its surroundings because the proposed use is properly situated in conjunction with the surrounding community, the units are being developed on a significantly larger lot than is required and all of the established standards for the R-1-6 residential zoning district are being met.
- f) The proposed project is consistent with the General Plan, as provided in Land Use Goal 1 and Housing Goal 5, in that it contributes to providing additional single-family dwelling units in the City, while ensuring that all persons have equal access to housing opportunities. The proposed project must adhere to all building and fire code requirements and Conditions of Approval to ensure that the development is of high quality.

Conditions of Approval

- 1. Approval of PLN2003-00287 shall conform to Exhibit "A" (Site Plan and Landscape Plan) for property located at 35601 Niles Boulevard. The Zoning Administrator Permit shall permit the use of three single-family dwelling units as indicated in Exhibit "A" on this lot.
- 2. This Zoning Administrator Permit is being issued for the development of a "dwelling group. This permit also approves a parking reduction to the number of parking spaces required (7 standard spaces where 9 are required) and a reduction in covered parking spaces (providing 6 where 9 area required), based upon the proposed tenancy of the project. Any proposed change in tenancy type will require review by the Zoning Administrator to determine if any on-site changes/modifications to the parking facilities are needed based upon the new tenancy.

3. A sidewalk/pathway connection shall be located on the eastern side of the private driveway connecting the development to Niles Boulevard, subject to review and approval by staff during the **Development Organization** review process.
4. The applicant shall submit appropriate plans to the **Development Organization** for review to ensure compliance with all City codes and policies. Any changes or modifications required through the **Development Organization** review process shall be incorporated into the project.
5. Building materials and colors shall be submitted to the **Development Organization** for review and approval.
6. The elevations of the carport and storage shed shall be compatible with the design and architecture of the dwelling units.
7. All mechanical equipment, including air conditioning units, and PG&E meters, shall be screened from view from adjacent public rights-of-ways and other uses, subject to the review and approval of staff during the **Development Organization** review process.
8. Garbage or trash containers shall be indicated on the plans, suitably concealed behind permanent screening or fencing, subject to review and approval of staff during the **Development Organization** review process.
9. No exterior lighting shall be permitted except that which has a concealed source, subject to the review of staff during the **Development Organization** review process.
10. The applicant shall be required to have an irrigation system and landscaping on the Niles Boulevard portion of the soundwall to soften/enhance its appearance from the public right-of-way. This shall be reviewed through the **Development Organization** review process. .
11. Minor revisions to the site plan, building location, and architecture details may be permitted, subject to Zoning Administrator Approval during the **Development Organization** review process.
12. The applicant has completed a Phase 1 Environmental Site Assessment, which has been reviewed by the City. The applicant shall complete and submit the findings of the following additional environmental analysis prior to the submission of plans to the **Development Organization**:
 - Complete an analysis to determine the presence or absence of historical agriculture chemicals, namely pesticides and herbicides.
 - Selected areas need to be screened for the presence of aerially deposited lead. A limited number of on-site soil samples will need to be collected.
13. The findings of the *Niles Grove Development 35601 Niles Boulevard Environmental Noise and Vibration Assessment* shall be implemented through the development of the project. The mitigation measures identified in the Assessment shall be identified on the plans submitted to the Development Organization.
14. The applicant shall locate all soundwalls, consisting of concrete (cast-in-place or precast) or concrete masonry units, or any "hardscape material" (brick, stone, etc.) within the projects property lines. No soundwalls will be allowed to encroach into a public R.O.W. Soundwalls will be softened by vines, attached to the walls, at an on-center spacing of no greater than 10'-0" on the exterior of the wall, with irrigation. Wood fences shall not be allowed as soundwalls. This shall be reviewed through the **Development Organization** review process.

15. A pre-construction survey for burrowing owls shall be required no more than 30 days prior to any grading or ground disturbance to determine the presence of owls. If burrowing owls are indeed found, the California Department of Fish and Game (CDFG) shall be consulted to determine the best method of mitigating the impacts to the owls.
16. The project shall be subject to City-wide Development Impact Fees. These fees may include but not be limited to fire protection; park facilities, capital facilities and traffic impact fees as well as the park facilities and park dedication in-lieu fee. These fees shall be calculated at the rate in effect at the time of building permit issuance.

Environmental Services Requirements

17. The applicant shall identify the total amount of impervious surface area that will be generated by the development (roofs, parking lots, driveways, private streets, walkways, etc).
18. Prior to beginning construction on this project, the applicant must submit a **Project Waste Handling Plan** for managing all expected construction and demolition debris to the Environmental Services Division. The Plan must include the following information
 - Contractor's name, address, and telephone number;
 - Project location and/or street address;
 - Anticipated start and completion dates for the project; and,
 - A list of debris materials the applicant expects to generate (e.g., glass, wood, metal, drywall, concrete, or brick), the estimated total tonnage or volume of material, and whether it is to be salvaged, reused recycled or disposed.
19. After completing the construction project, the contractor will submit a **Post-Project Waste Disposal & Diversion Report**, to Environmental Services on actual tonnages or volumes disposed and recycled for the project, and the actual cost of disposal and recycling.
20. The contractor must insure that non-recyclable construction and demolition debris is removed from the site using means set out in the Fremont Municipal Code, including one or more of the following ways:
 - Removal from the premises by the construction or demolition contractor as part of a total construction, remodeling or demolition service offered by that contractor.
 - Placement of small amounts of debris into customer's existing trash container(s) with prior notice to the City's franchised waste hauler.
 - Contracting the City franchised waste hauler to arrange for use of rolloff drop boxes or debris box containers with sufficient capacity to store all demolition materials to be landfilled.

Engineering Department Requirements

21. The developer shall apply for and obtain an encroachment permit for all improvements within the public right-of-way. The encroachment permit shall be obtained concurrently with or prior to issuance of the building permit.
22. Applicant shall provide for a functional drainage system subject to approval of the City during Development Organization review.
23. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

24. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
25. The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer. A separate plan shall be submitted for this purpose during **Development Organization**.
26. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on site that effectively prohibit the entry of pollutants into storm water runoff.
27. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
28. All paved outdoor storage areas must be designed to reduce and limit the potential for runoff of contact pollutants. Bulk materials stored outdoors may need to be covered as determined by the City Engineer.
29. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
30. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
31. The proposed development shall provide waste and recycling enclosures that shall be made accessible to the City's waste management contractor. The location and accessibility of the trash and recycling enclosures shall be subject to the review and approval by the Development Organization Engineer.
32. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
33. All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.
34. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.

Fire Department Requirements

35. The applicant shall meet all requirements in the 2001 California Fire Code and all local mandated fire code requirements adopted by City Council under Ordinance 2585.

36. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard required:N.F.P.A. 13.
37. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width.
38. Fire hydrant spacing requirement is 300 feet. The distance is measured as the fire engine travels on all-weather surfaces.

Landscape Requirements

39. The applicant shall clearly articulate/identify existing tree species to remain or to be relocated on plans submitted to the **Development Organization**.
40. For the decomposed granite pathway leading to the storage structure, the section needs to accommodate vehicular weight. Therefore, the section of decomposed granite shall consist of a minimum 6" depth on an 8" minimum aggregate base with a binding slurry. Depth of aggregate base to be determined by a registered Civil Engineer or the Project Engineer. This is the only area where a vehicular depth decomposed granite section will be allowed. Since rutting could potentially occur and be dangerous, a stable section is necessary.
41. All concrete paths shall receive an enriched paving treatment. Treatment shall consist of integral color concrete, creative scoring patterns, and contrasting or complimentary finish to the architecture.
42. The applicant shall provide a complete tree survey. The tree survey shall be a separate drawing of the existing trees for this development. Items required for a tree survey shall be Botanical names, common names, and caliper size. This shall be submitted with the **Development Organization** submission.
43. The City of Fremont Landscape Development Requirements and Policies will be applied during the Developmental Organizational Review Period. To ensure that the requirements have been met, please review the City of Fremont Landscape Development Requirements and Policies and the Tree Preservation Ordinance which are available on-line at:
www.fremont.gov/CityHall/Departments/Engineering.htm
44. This Zoning Administrator approval shall be subject to revocation by the Zoning Administrator, Planning Commission or City Council at such time as any of the following conditions are found to exist:
 - a. Conditions of approval have not been fulfilled;
 - b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property; or
 - c. The use has resulted in a substantial adverse impact on public facilities or services.

During Construction

51. Construction activities shall be limited to the following hours of operation:

7 a.m. to 7 p.m. Monday through Friday
9 a.m. to 6 p.m. Saturday

No construction activities permitted on Sunday. Failure to comply with the construction hours of operation will lead to withholding of inspections.

45. The applicant shall be responsible for litter control and sweeping of all paved surfaces. All on-site drains shall be cleaned immediately before the start of the rainy season beginning on October 15 of each year, subject to the review and approval of the Building/Public Works Inspector.
46. A vehicle or equipment washing/steam cleaning shall be done at an appropriately equipped facility, which drains to the sanitary sewer. Out door washing shall be managed in such a way that there is no discharge or soaps, solvents, cleaning agents, or other pollutants to the storm drain. Wash water shall discharge to the sanitary sewer, subject to review and approval of the Union Sanitary District.

END OF CONDITIONS